

ESTTA Tracking number: **ESTTA450903**

Filing date: **01/12/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202823
Party	Defendant Paul Shim
Correspondence Address	HYONG C KIM LAW OFFICE OF LEE & ASSOCIATES 3530 WILSHIRE BLVD , STE 1280 LOS ANGELES, CA 90010-2321 UNITED STATES wilshirelaw@gmail.com
Submission	Answer
Filer's Name	Yong Bom Lee
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Signature	/brian lee/
Date	01/12/2012
Attachments	01122012 USPTO BTTAB Answer re Pozen Opposition 91202823.pdf (5 pages) (751638 bytes)

1 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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4 Application Serial No.: 85/249961

MARK: PowerZEN

5 Applied on: Feb. 26, 2011

6 Published on: July 26, 2011

7 Opposition Filed on: November 28, 2011

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10 **POZEN, INC.,**

) **Opposition No.: 91202823**

11 **Petitioner,**

)

12 **vs.**

) **ANSWER OF THE APPLICANT TO THE**

13 **PAUL SHIM,**

) **PETITION FOR OPPOSITION**

14 **Applicant**

)

15)

16)

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18 Paul Shim (hereinafter referred to as “**Applicant**”), by and through its undersigned
19 attorney, hereby answers the Petition for Opposition filed by POZEN, INC., (hereinafter
20 referred to as “**Petitioner**”), and admits, denies and alleges, in accordance with the numbered
21 paragraphs of the Petition for Opposition, as follows:

22
23 **ANSWER TO PETITION FOR OPPOSITION**

24 1. Applicant is without knowledge or information sufficient to either admit or deny
25 the allegations in the paragraph 1, and therefore, denies each and every allegation therein.

26 2. Applicant is without knowledge or information sufficient to either admit or deny
27 the allegations in the paragraph 2, and therefore, denies each and every allegation therein.

28 3. Applicant admits the allegations in the paragraph 3.

 4. Applicant admits the allegations in the paragraph 4.

FIRST AFFIRMATIVE DEFENSE

SECOND AFFIRMATIVE DEFENSE

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THIRD AFFIRMATIVE DEFENSE

3. As a third and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Petitioner's claims are barred by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

4. As a fourth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Petitioner's claims are barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

5. As a fifth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that there is no likelihood of confusion between POWERZEN and POZEN.

SIXTH AFFIRMATIVE DEFENSE

6. As a sixth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that there is no similarity between POWERZEN and POZEN.

SEVENTH AFFIRMATIVE DEFENSE

7. As a seventh and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that there is a substantial different in chain of commerce or trade for POWERZEN and POZEN.

EIGHTH AFFIRMATIVE DEFENSE

8. As a eighth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that the customers for POWERZEN and POZEN are substantially different and not-related.

COUNTERCLAIMS

No counterclaims are being filed.

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1 WHEREFOR, APPLICANT prays for relief as follows:

- 2 1. That Petitioner's Petition be denied; and
3 2. For such other relief as the Board deems just and proper.
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5 Respectfully submitted,

6 LAW OFFICE OF LEE & ASSOCIATES
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8 Dated: January 12, 2012
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11 Yong Bom (Brian) Lee, Wilson B. Quan, Hyong C. Kim
12 Attorneys for Applicant
13 Telephone Number: (213) 368-7717
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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am a resident of the country aforesaid; am over the age of eighteen years and not a party to the within action. My business address is 3530 Wilshire Blvd., Suite 1280 Los Angeles, CA 90010.

On January 12, 2012, I served the within documents:

Answer to the Petition for Opposition

On the interested parties in the above action, by faxing and mailing a true copy thereof as follows:

John E. Lyhus
Fitch, Even, Tabin & Flannery
120 South LaSalle, Suite 1600
Chicago, Illinois 60603-3406

Executed on January 12, 2012, at Los Angeles, California

☐ STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ FEDERAL I declare that I am employed in the office of a member of the bar of Federal Court at whose direction the service was made.



Su Lee